

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Independent Claims 2 and 7 are rejected under 35 U.S.C. §103(a) in view of the disclosures in U.S. Patent No. 6,279,779 to Laciacara et al. ("Laciacara"), U.S. Patent No. 6,131,806 to Hess, III et al. ("Hess") and U.S. Patent No. 5,564,622 to Wald.

The Official Action takes the position that Figs. 4-8 of Laciacara show the pouring plug defined in the independent claims at issue here, including the cap, the removable ring, the flange and the area for pre-laminated hole. The Official Action recognizes that Laciacara's pouring device is not mounted on a slanting top/front surface of a container, and that Laciacara's pouring device does not extend from a flange approximately at an angle from the flange so as to be substantially parallel with a vertically extending wall of the package, as presently defined in independent Claims 2 and 7. To address these deficiencies, the Official Action refers to the disclosures in Hess and Wald. The Official Action says that Hess's dispensing structure is mounted on a slanting top/front surface of a container as illustrated in Fig. 22 of Hess, and that Fig. 1 of Wald shows a vertically extending pour spout 11 mounted on the slanting surface of a gable top portion of a container. In this regard, the Official Action believes it would have been obvious to modify Laciacara's pouring device to be mounted on a slanting top/front surface of a container, and to extend from a flange of the device at an angle while also parallel to a vertically extending wall of the package, based on the disclosures in Hess and Wald.

To better distinguish claimed packaging container in view of the Official Action's position, independent Claims 2 and 7 are amended to define the subject

matter of Claim 3. Thus, the packaging container defined in Claim 2 includes, *inter alia*, a substantially flat surface adjacent to the tilted surface on a rear side of the top part, and the height of the cap fitted on to the pouring spout portion is lower than that of the flat surface of the top part of the container. Claim 7 defines, *inter alia*, that the height of the cap on the pour spout portion is lower than that of the flat surface portion of the top surface of the packaging container. The combination of Laciacara, Hess and Wald fails to disclose or suggest these features.

For example, Laciacara's cap 17 is disposed on the top surface of the container. As best illustrated in Fig. 1 of Laciacara, the height of the cap 17 fitted onto the frame 15 is *higher* than that of the flat surface of the top of the container. The cap 440 disclosed by Hess is mounted on a fitment base projection 450 as shown in Figs. 20 and 22 of Hess. As illustrated in Fig. 22, Hess's cap 440 extends above the top of the container. That is, the height of the cap 440 fitted onto the fitment base projection 450 is *higher* than that of the flat surface of the top of the container. Further, Wald fails to cure the deficiencies of Laciacara and Hess.

Accordingly, the combination of Laciacara, Hess and Wald fails to disclose, and would not have rendered obvious, a packaging container having the claimed combination of features, including a substantially flat surface adjacent to the tilted surface on a rear side of the top part, and the height of the cap fitted on to the pouring spout portion being lower than that of the flat surface of the top part of the container as recited in independent Claim 2, and similarly recited in independent Claim 7. Thus, independent Claims 2 and 7 are patentable over the combination of Laciacara, Hess and Wald for at least the above reasons.

Claims 4-6 are patentable over the applied references at least by virtue of their dependence from patentable independent Claim 2. Thus, a detailed discussion

of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejection is respectfully requested.

New independent Claim 8 is presented for consideration and recites that the angle of the lower end portion of the movable ring is substantially parallel to the area for pre-laminated hole sealed by the film in an initial position of the movable ring before the movable ring is rotated toward a cutting position to cut the film, and is not parallel to the area for pre-laminated hole sealed by the film after the movable ring is rotated toward the cutting position and cuts the film. The combination of applied references fails to disclose or suggest these features.

New Claim 9 is patentable over the applied references for at least the reasons discussed above.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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